

HEADQUARTERS
UNITED STATES EUROPEAN COMMAND
UNIT 30400, BOX 1000
APO AE 09128

DIRECTIVE
NUMBER 30-9

3 July 1997

PERSONNEL

Equal Opportunity and Sexual Harassment

1. Summary. To establish Headquarters United States European Command (HQ USEUCOM) policies on Equal Opportunity (EO), Equal Employment Opportunity (EEO), and Sexual Harassment and to establish reporting and administrative procedures for their administration. Equal Opportunity in this Directive refers to and includes Equal Employment Opportunity for civilians, although procedures may differ and will be addressed accordingly.

2. Applicability. This policy applies to all military and U. S. civilian personnel, active or reserve, assigned, attached, or on temporary duty assigned to Headquarters United States European Command to include all HQ USEUCOM Directorates, Office Staffs, George C. Marshall Center, Joint Analysis Center, Stars and Stripes, NATO School and all HQ USEUCOM Security Assistance Organizations and Offices of Defense Cooperation (SAO/ODC).

3. Internal Control Systems. This Directive does not contain internal control provisions and is not subject to the requirements of the internal management control program. For HQ USEUCOM and subordinate joint activities, the applicable internal control directive is ED 50-8, Internal Management Control Program.

4. References.

a. DoD Directive 1350.2, "The Department of Defense Military Equal Opportunity Program," August 18, 1995.

b. DoD Directive 1440.1, "DoD Civilian Equal Employment Opportunity (EEO) Program (FM&P)," May 27, 1987.

c. TITLE VII of the Civil Rights Act of 1964.

d. 29 Code of Federal Regulations (CFR) Part 1614.

e. DoD Human Goals Charter (signed by the Secretary of Defense, Deputy Secretary of Defense, Secretaries of the Military Departments, Chairman of the Joint Chiefs of Staff, and Service Chiefs), May 19, 1994.

f. Secretary of Defense Memorandum, "Equal Opportunity (EO)," March 3, 1994.

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g. Secretary of Defense Memorandum, "Prohibition of Sexual Harassment in the Department of Defense (DoD)," August 22, 1994.
OPNAVINST 5354.1 Series, Navy Equal Opportunity

h. SECNAVINST 5300.26B, Department of the Navy Policy on Sexual Harassment.

i. AR 600-20, Army Command Policy, Chapter 6, Equal Opportunity Program in the Army.

j. AF INST. 36-2706, Military Equal Opportunity and Treatment Program, 1 December 1996.

k. Marine Corps Order P5354.1B, USMC Equal Opportunity Manual.
UCMJ (Uniform Code of Military Justice).

5. Suggested Improvements. The proponent for this DIRECTIVE is the HQ USEUCOM Equal Opportunity Office (ECEO). Recommendations for changes or corrections should be sent to HQ, USEUCOM, ATTN: ECEO, Unit 30400, Box 1000, APO AE 09128.

6. Equal Opportunity Policy.

a. Equal Opportunity (EO). The right of all persons to participate in, and benefit from, programs and activities for which they are qualified. These programs and activities shall be free from social, personal, or institutional barriers that prevent people from rising to the highest level of responsibility possible. Persons shall be evaluated on individual merit, fitness, and capability, regardless of race, color, sex, national origin, or religion and additionally, for civilians age or disability.

b. Sexual Harassment.

(1) Sexual harassment has no place in USEUCOM. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature are prohibited behavior.

(2) Sexual harassment is defined as: A form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career, or

(b) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment. This definition emphasizes that workplace conduct, to be actionable as "abusive work environment" harassment, need not result in concrete psychological harm to the victim, but rather need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or offensive. "Workplace" is an expansive term for Military members and may include conduct on or off duty, 24 hours a day. Any person in a supervisory or command position who uses or condones any form of sexual behavior to control, influence, or affect the career, pay, or job of a Military member or civilian employee is engaging in sexual harassment. Similarly, any Military member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature in the workplace is also engaging in sexual harassment.

c. Individual Responsibilities. All members of USEUCOM have the right to achieve their potential and serve in an atmosphere in which they are valued as individuals. Discrimination, unequal treatment, sexual harassment, hate groups, supremacist activity and similar unprofessional conduct have no place at USEUCOM or in the extended military- civilian community around USEUCOM. Every person in the USEUCOM community must uphold the principles of equal opportunity and equal treatment. Unlawful discrimination against anyone based on race, color, religion, gender, national origin, and additionally for civilians, age or disability will not be tolerated.

d. Leadership Responsibilities. HQ USEUCOM military and civilian leaders and supervisors are accountable for ensuring military members and civilian employees are not subject to discrimination or other forms of unfair or unequal treatment as listed in subparagraph (a) above. In addition, they are accountable for ensuring that military members and civilian employees are not assessed, classified, trained, assigned, promoted, or otherwise managed on the basis of race, color, religion, sex, national origin, (age, and physical/mental handicap pertains to civilian employees) or reprisal for prior EO/EEO activities. For civilian employees, reprisal also includes opposition to any protected activity covered by Title VII, reference (c) (e.g., providing information or testimony as a witness on allegation of sexual harassment or other discrimination charges).

7. Chain of Command Responsibilities.

a. U. S. Commander in Chief, Europe (USCINCEUR). USCINCEUR is responsible for developing and sustaining a healthy, ethical command environment which promotes teamwork and respect among all personnel.

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b. Chief of Staff (CoS) USEUCOM. The USEUCOM Chief of Staff is responsible for establishing and chairing a Human Relations Advisory Council which will advocate equal opportunity at the headquarters and coordinate headquarters EO activities. The Human Relations Advisory Council charter is provided as attachment 1.

c. Directors and Staff Supervisors. The HQ USEUCOM Directors and Chiefs of Special Staff are responsible for implementing the EO program as directed by this policy and its attachments. They are responsible for ensuring EO for all personnel assigned to their directorate or staff or under their supervision. Directors and Chiefs of Special Staff shall:

- (1) Ensure the USEUCOM EO policy and program becomes an integral part of day-to-day personnel management.
- (2) Ensure assigned/attached personnel attend required training.
- (3) Ensure rating officials consider EO program support when preparing efficiency reports and/or evaluations on their subordinates.
- (4) Identify discriminatory practices, establish training required to alleviate discrimination and initiate appropriate corrective action(s) when discrimination is discovered.
- (5) Ensure civilian EEO complaints resolutions and disciplinary actions are processed and reported.

d. Unit Commanders. Commanders of the USEUCOM Joint Analysis Center (JAC), Stars and Stripes, NATO School and the Director of the George C. Marshall Center (GCMC) are responsible for ensuring EO support and enforcement for all personnel assigned to their commands or under their supervision. Commanders shall:

- (1) Issue their personal EO policy statement to the command, in conjunction with the USCINCEUR's EO Policy.
- (2) Follow the complaint procedures outlined in this Directive.
- (3) Conduct an EO command assessment within 90 days of taking command and at least annually thereafter. The results of the most recent assessment will be reviewed as part of the change of command process.
- (4) Provide a command EO assessment plan of action to HQ USEUCOM for review annually.
- (5) Provide EO statistics to HQ USEUCOM annually and as directed.
- (6) Report all military EO and sexual harassment complaints to USEUCOM Chief of Staff through the HQ USEUCOM ECEO office.

e. Joint Task Force (JTF) Commanders. JTF Commanders will:

- (1) Ensure that all assigned personnel adhere to USEUCOM EO policies,
- (2) Ensure that complaints are resolved through appropriate Service channels, and
- (3) Ensure that the ECEO office is informed of all complaints.

f. SAO/ODC Organizations. Security Assistance/Office of Defense Cooperation will develop and execute internal equal opportunity procedures consistent with this policy and applicable agreements with State Department and host nations that establish individual responsibilities, and other matters unique to the organization. All EO and sexual harassment complaints and resolutions shall be reported to the USEUCOM Chief of Staff through the HQ USEUCOM ECEO office.

8. Equal Opportunity Program Office, Duties. The HQ USEUCOM Equal Opportunity Office (ECEO) is responsible for ensuring the USCINCEUR policy is published, distributed and shall:

- a. Represent and advise the senior leadership in military EO matters.
- b. Provide guidance for assigned personnel on military EO and civilian EEO matters.
- c. Coordinate Equal Opportunity training provided to and for all HQ USEUCOM members.
- d. Coordinate among the components, services, Office of the Secretary of Defense (OSD), Joint Staff and DoD.
- e. Proactively seek to provide support and promote Equal Opportunity for military personnel, civilian employees and families of military and civilian personnel.
- f. Coordinate HQ USEUCOM EO command assessments.
- g. Coordinate the collection and reporting of EO statistics as directed by higher authority.
- h. Facilitate the program of EUCOM Human Relations Advisory Council.

9. Human Relations Advisory Council. The HQ USEUCOM Human Relations Advisory Council will be established per the charter at attachment 1 and shall:

- a. Be chaired by the Chief of Staff.

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- b. Recommend programs which support the DoD Human Goals Charter.
- c. Advise USEUCOM Chief of Staff on policies for EO initiatives and programs.
- d. Monitor and evaluate personnel issues, indicators and climate through surveys, seminars, and input to the council from individuals.
- e. Develop, implement, monitor and recommend training as needed.

10. Conflict Resolution/Complaint Reporting. The conflict resolution process is designed to encourage resolution within the chain of command (supervisory channels) at the lowest possible level. Diagrams at Appendixes B1 and C1, depict channels available for complaint resolution. The conflict resolution process consists of the following steps and should proceed in the order stated, unless circumstances dictate otherwise:

- Direct communication with alleged offender.
- Informal dispute resolution.
- Formal complaint process.

a. U. S. Civilian Employees. The following refers to U.S. Civilian employees, former employees or applicants for employment at HQ USEUCOM.

(1) Civilian employees must be referred to 6th ASG EEO office to be advised of their rights to file an Equal Employment Opportunity (EEO) Complaint in accordance with 29 Code of Federal Regulations Part 1614.

(2) The civilian member (applicant for employment, an employee, or former employee) has 45 calendar days from the date of incident to contact the 6th ASG EEO Office or servicing EEO office as applicable.

(3) Civilian employees who suspect or become aware of incidents of reprisal should also contact 6th ASG EEO office for assistance.

(4) When appropriate the Service Commander will take corrective to prevent and rectify incidents of reprisal.

(5) A civilian has the right to use any of the military processes, and may avail themselves of resources listed in 10d, for assistance in resolving their complaints, however, using those resources or the following complaint procedures does not extend any of the timelines established by law for discrimination complaint processing through EEOC channels.

b. Direct Communication with Alleged Offender. To the extent practical, the individual should attempt to resolve a complaint by first informing the alleged offender or responsible agency that the behavior or action is perceived as discrimination and/or harassment and corrective action must be taken immediately to ensure fair and professional treatment of the individual.

c. Informal Resolution: If the complainant and the individual or agency perceived to have discriminated are receptive to informal resolution, to include use of mediation techniques, the EO Advisor, the chain of command, or others with the advice and assistance of the USEUCOM Office of the Legal Advisor (ECLA), will assist parties involved as requested. The individual/agency handling an informal complaint shall complete an Memo For Record (MFR) for local records on actions taken to resolve the issue. If satisfactory relief is achieved through the informal process, the case is considered closed.

d. Formal Resolution. If attempts at informal resolution are unsuccessful or inappropriate based on the seriousness of the behavior, or if the discriminatory behavior persists after the informal resolution action has occurred, a formal complaint process is appropriate.

(1) The formal complaint process at HQ USEUCOM is initiated by the complainant providing a written statement to the HQ USEUCOM EO Advisor or a member of the chain of command, or civilian supervisory chain or by contacting any one of the following:

- (a) The alleged offender's Chain of Command.
- (b) The first level in the complainant's chain of command (supervision) which is not involved in the complaint.
- (c) The USEUCOM Senior Service Leader (J4 Director/Army, J3 Director/Navy, J5 Director/Air Force, J3 Deputy Director/Marine).
- (d) The complainant's Service EO representative.
- (e) USEUCOM Inspector General.
- (f) USEUCOM Chaplain.
- (g) Base agency alleged to have discriminated.
- (h) 6th ASG EEO Office or servicing EEO Office as applicable.
- (i) 6th ASG Military Police.
- (j) Base/Post Staff Judge Advocate (SJA) or USEUCOM Office of the Legal Advisor.

The form, EU 30-9a, Appendix D, will be used to process complaints within the HQ USEUCOM chain of command unless the member is civilian employee or applicant, in which case they must use the Equal Employment Opportunity Complaint (EEO) process depicted in C1, Appendix C. Any written statement will be sworn using block 9a (Affidavit) of EU 30-9a, Appendix D.

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Military members and families of military and civilian personnel have 60 calendar days from the date of the last alleged incident to file a formal complaint using USEUCOM complaint procedures. Civilian employees, applicants for employment or former employees have 45 days from the date of the incident when the issue is employment, to contact the servicing EEO office. (Below applies to military and family members of military and civilian members).

(2) The individual receiving the complaint under HQ USEUCOM procedures, will have three duty days from receipt of the sworn complaint to inform the complainant's Senior Service Leader, of the complaint, identifying the complainant and the alleged offender.

(3) The Senior Service Leader or Director/Office Chief, as appropriate, will inform the complainant as to whether an investigating officer will be appointed or whether the complaint will be referred to another agency or to the service headquarters as necessary for resolution.

(4) The complainant's Senior Service Leader, or Director/Office Chief for civilians, will sign the complaint form, block 10f, acknowledging receipt of the complaint. For complaints being investigated, the complainant's Senior Service Leader, Director/Office Chief or other supervisory authority, as appropriate, will be the appointing authority for the investigating officer. The EO Advisor will not be appointed to investigate formal complaints.

(5) In every case the investigating officer will be outside the chain of command of both the complainant and the alleged offender and will be senior to the alleged offender. The investigating officer will have 14 calendar days to complete the investigation unless an extension (of up to 30 days) is granted by the appointing authority. The HQ USEUCOM EO Advisor will be kept apprised of the investigation for timely completion and will coordinate with the USEUCOM Office of the Legal Advisor (ECLA) to conduct appropriate legal reviews. Upon final disposition, a copy of the case file will be provided to the HQ USEUCOM ECEO office.

(6) The Senior Service Leader for the complainant will complete Part II of the Complaint Form: Results of the Investigation, and will counsel the complainant on findings and actions being taken to resolve the complaint. Specific disciplinary actions being taken with the alleged offender do not have to be listed, however, the complainant will be informed that appropriate action has been taken.

(7) The Senior Service Leader for uniformed in consultation with the USEUCOM Office of the Legal Advisor (ECLA) will take appropriate administrative and/or disciplinary action where warranted.

(8) A substantiated complaint will be resolved by actions taken to restore benefits, privileges, opportunities and respect lost because of unlawful discrimination, to include sexual harassment, where appropriate.

(9) The Senior Service Leader or higher level commander will sign block 12b of the complaint form after advising the complainant of actions taken to resolve the complaint. The complainant will sign acknowledging receipt of this information.

The HQ USEUCOM EO Advisor serves as a neutral intermediary and will assist the investigating officer in developing questions to assess the validity of the allegations and will review findings to ensure focus of the investigation does not inappropriately shift from the alleged offender to the complainant. The EO Advisor also advises the complainant and recommends actions for complaint resolution to the chain of command. A follow-up assessment will be conducted by the Equal Opportunity Advisor which will provide feedback to the Chief of Staff on the success of actions taken to resolve the complaint and any indications of reprisal. (Form 30-9b, Appendix E)

11. Appeal Procedures.

a. Complainants have 7 calendar days to sign part IV of the complaint form, EU 30-9a, Appendix D, indicating whether they are appealing the findings or whether they decline appeal.

b. Complainants will have the right to appeal findings to the next higher level of command or supervision with subsequent appeal to USCINCEUR, as appropriate. Final appeals for complaints not resolved at HQ USEUCOM will be processed in accordance with paragraph F3, reference a.

c. Part V of the complaint form indicates actions taken on the appeal. Part VI of the complaint form is the complainant's signature acknowledging having been advised of actions taken on the appeal.

12. Rights of Individual Making Complaint. HQ USEUCOM members, military and civilian, have the right to:

a. Receive guidance on the HQ USEUCOM complaint resolution process and be assisted when submitting a complaint.

b. Present a complaint without fear of intimidation, reprisal or harassment. Leaders at all levels will ensure that individuals do NOT experience reprisal for reporting incidents of discrimination.

c. Receive confidential treatment of their complaint to the maximum extent possible.

13. Responsibility for Case Resolution:

a. Cases in which the alleged offender is assigned to HQ USEUCOM are processed by HQ USEUCOM, with the exception of general/flag officers, which will be reported to and coordinated with the appropriate Service, Joint, or DoD IG or EO Office.

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b. Cases, in which the alleged offender is assigned to an agency/unit other than HQ USEUCOM, are referred to that agency/unit for complaint resolution. The HQ USEUCOM EO Advisor serves as liaison and should be kept apprised of the process.

c. Commanders will determine whether the allegations, substantiated or unsubstantiated, are indicative of problems in the work area and will take corrective action.

FOR THE COMMANDER IN CHIEF:

OFFICIAL:

DAVID L. BENTON III
Lieutenant General, USA
Chief of Staff


SUSAN M. MEYER
LTC, USA
Adjutant General

APPENDIXES:

- A - Human Relations Advisory Council (HRAC) Charter
- B - The USEUCOM Equal Opportunity Complaint Process
- C - The Discrimination Complaint Process
- D - USEUCOM Equal Opportunity Complaint Form (EU 30-9a)
- E - Equal Opportunity Complaint Resolution Assessment Form (EU 30-9b)

DISTRIBUTION:

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